

DUTIES, RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

Convention signed at Havana April 22, 1926

Senate advice and consent to ratification June 30, 1926

Ratified by the President of the United States July 16, 1926

Ratified by Cuba November 29, 1926

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44 Stat. 2471; Treaty Series 75

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CUBA

The United States of America and the Republic of Cuba, being desirous of defining the duties, rights, privileges and immunities of consular officers of the two countries have agreed to conclude a Convention for that purpose and to that end have named as their respective plenipotentiaries:

The President of the United States of America, Mr. Enoch H. Crowder, Ambassador Extraordinary and Plenipotentiary of the United States of America in Cuba, and

The President of the Republic of Cuba, Mr. Carlos Manuel de Céspedes y de Quesada, Secretary of State of the Republic of Cuba,

who, having communicated their full powers found in good and due form, have agreed upon the following Articles:

ARTICLE I

The High Contracting Parties agree to receive from each other, consular officers, at the places of their respective territories that they may consider convenient and which are open to consular representatives of any foreign country.

ARTICLE II

Consular officers may not take up the discharge of their duties nor enjoy the corresponding privileges, until after the Government to which they have

been appointed shall have granted them their exequatur, except in the case that said Government, at the request of the Embassy of the other, shall have granted them provisional recognition.

The Government of each of the High Contracting Parties shall furnish free of charge the exequatur of such consular officers of the other High Contracting Party as present a regular commission signed by the chief executive of the appointing state and under its Great Seal, and shall issue to a subordinate or substitute consular officer appointed by a superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function.

ARTICLE III

Consular officers to whom the exequatur or other documents referred to in the foregoing article have been issued shall enjoy all the rights, immunities, privileges and exemptions granted by this Convention and those enjoyed by officers of the same grade of the most favored Nation.

ARTICLE IV

As official agents of the State which appoints them, such consular officers shall be entitled to the high consideration of the officials of the Government and of the local authorities of the State which receives them, they being subject, in so far as regards ceremonial, to the provisions or practices in force in said country.

The consular officers shall exercise their functions obeying the laws and respecting the authorities of the Nation which receives them, and they shall be subject to said authorities in all matters which do not come under the exercise of their functions and within the limits of their jurisdiction, except as otherwise provided in this Convention.

ARTICLE V

Consular officers, nationals of the State by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office, and there shall be compliance on the part of the consular officer.

In civil cases consular officers shall be subject to the jurisdiction of the courts, provided, however, that when the officer is a national of the State which appoints him and is engaged in no private occupation for gain his

testimony shall be taken orally or in writing at his residence or office and with the consideration due him. The officer must, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

ARTICLE VI

Consular officers, including employees in a consulate, nationals of the State by which they are appointed, other than those engaged in private occupations for gain within the State where they exercise their functions, shall be exempt from all taxes, national, state, provincial and municipal levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. Consular officers and employees, nationals of the State appointing them, shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services, as well as from every class of requisitions, billetings or services of a military, naval, administrative or police character.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, national, state, provincial and municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE VII

Consular officers may place over the outer part of their respective offices the arms of their State with an appropriate inscription designating the consular office. Such officers may also hoist the flag of their country on their offices, including those situated in the capital of the country which receives them and over any boat employed in the exercise of the consular function.

The consular offices and archives are inviolable at all times and in no event may the local authorities enter them without the permission of the consular officers, nor examine or seize, under any pretext, any of the documents or objects found within a consular office. Neither shall any consular office be required to produce official archives in court or testify as to their contents.

When a consular officer is engaged in business of any kind within the country which receives him, the archives of the consulate and the documents relative to the same shall be kept in a place entirely apart from his private or business papers.

ARTICLE VIII

Consular offices shall not be used as places of asylum. Consular officers are under the obligation of surrendering to the proper local authorities, which may claim them, persons prosecuted for crime in accordance with the domestic laws of the country which receives them, who have taken refuge in the building occupied by the consular offices.

ARTICLE IX

Upon the death, incapacity or absence of all the consular officers, any of the chancellors or auxiliary employees, whose official character may have previously been made known to the Secretary of State, may temporarily exercise the consular functions, and while so acting shall enjoy all the rights, prerogatives immunities and exemptions belonging to the incumbent.

ARTICLE X

Consular officers, nationals of the state by which they are appointed, may, within their respective consular districts, address the authorities, national, state, provincial or municipal, for purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the appropriate authorities to grant redress or to accord protection may justify recourse to the diplomatic channel.

ARTICLE XI

Consular officers may, in pursuance of the laws of their own country, take at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the state by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions, and contracts relating to property situated, or business to be transacted, within the territories of the state by which they are appointed embracing unilateral acts, deeds, testamentary dispositions or contracts executed solely by nationals of the state within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated and bearing the official seal of the consular office, shall be received as evidence in the territories of the High Contracting Parties as original documents or authenticated copies, as the case may be, and

shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized therefor in the country by which the consular officer was appointed, provided always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

ARTICLE XII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, including controversies which may arise at sea or in port, between the captain, the officers and the crew concerning the enforcement of discipline, provided the vessels and the persons charged with wrongdoing shall have entered a port within his consular district. Such officer shall also have jurisdiction in controversies involving the settlement of wages and the performance of the stipulations reciprocally agreed upon provided the local laws so permit.

When an act committed on board of a merchant vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of the last named State, the consular officer shall not exercise jurisdiction.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed for the purpose of observing the proceedings and rendering assistance.

ARTICLE XIII

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of his death, may take charge of the protection or conservation of the property left by the decedent, pending the appointment of an administrator who may be the consular officer himself, in the discretion of the court competent to take cogni-

zance of the case, provided the laws of the place where the estate is administered permit such action by the consular officer and appointment by the court.

Whenever a consular officer accepts the office of administrator of the estate of a national of the country he represents, he subjects himself as such to the jurisdiction of the tribunal making the appointment for all pertinent purposes to the same extent as a national of the State where he is appointed.

ARTICLE XIV

A consular officer of either High Contracting Party may in behalf of the non-resident nationals of the country he represents, receipt for the shares coming to them in estates or in indemnities accruing under the provisions of so-called workmen's compensation laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

ARTICLE XV

A consular officer of either High Contracting Party shall have the right to inspect, within the ports of the other High Contracting Party within his consular district, the merchant vessels of any flag destined or about to clear for ports of the country which he represents in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the manner in which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XVI

The High Contracting Parties agree to permit the entry free of all customs duty and without examination of any kind of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post, or imported at any time during his incumbency thereof; provided nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

The above mentioned privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to supplies.

ARTICLE XVII

All operations relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred.

The local authorities will apprise the consular officers of the occurrence and pending the arrival of the said officers will take the measures that may be necessary for the protection of the persons and the preservation of the effects that were wrecked. The local authorities shall not interfere otherwise than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved which shall not be subjected to the payment of any custom house duties, unless it be intended for consumption in the country where the wreck took place.

The intervention of the local authorities in these cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XVIII

Consular officers shall cease in the discharge of their functions:

1. By virtue of an official communication from the Government which appointed him addressed to the Government which received him, advising that his functions have ceased, or
2. By virtue of a request of the Government which appointed him that an exequatur be issued to a successor, or
3. By withdrawal of the exequatur granted him by the Government of the Nation in which he discharges his duties.

ARTICLE XIX

The present convention shall be ratified by the High Contracting Parties in accordance with their respective laws, and the ratifications thereof shall be exchanged in the City of Havana as soon as possible. It shall take effect from the day of the exchange of ratifications and shall thereafter remain in force until one year after either of the High Contracting Parties has given notice to the other of its desire to terminate it.

In witness whereof, the above mentioned Plenipotentiaries have signed the two originals of the present Convention and have thereunto affixed their seals.

Done in two copies of the same text and legal force, in the English and Spanish languages, in the City of Havana, this twenty second day of April in the year one thousand nine hundred and twenty-six.

ENOCH H. CROWDER	[SEAL]
CARLOS MANUEL DE CÉSPEDES	[SEAL]